

Properties, LLC (“AAF Properties”), and Ebersol Sports Media Group, Inc. (“ESMG”) (collectively, “Defendants”).¹

2. On April 17, 2019 (the “Petition Date”), LFE; ESGM; AAF Players; and AAF Properties (collectively, “Debtors”) filed for relief pursuant to Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Western District of Texas (San Antonio) (“Bankruptcy Court”). The Debtors’ bankruptcy estates are being jointly administered under Case No. 19-50900-cag under the supervision of the Trustee.

3. On September 23, 2019, the Civil Action was transferred to the Bankruptcy Court.²

4. On July 8, 2020, and after extensive briefing and adjudication of Ebersol’s and Dundon’s motions to dismiss, the Bankruptcy Court entered the Agreed Phase 1 Scheduling Order (“Scheduling Order”) (Dkt. No. 135). The Scheduling Order sets forth the discovery and motion deadlines for class certification in this litigation.

5. The Trustee, in particular, has accumulated a large volume of documents that are relevant to Phase I issues in the course of his duties as Trustee. Much of this information, which includes contract documents, medical waivers, consents, payroll and other information, contains personally identifiable information (*e.g.*, social security numbers, medical doctor identifications, direct deposit information, and similar information).

6. The referenced information comprises tens of thousands of pages of individual .pdf records and documents and a smaller contingent of native files such as MS Excel spreadsheets. After beginning the process of attempting to individually redact all PII for all alleged class member documents, it became

¹ Plaintiffs’ Second Amended Complaint (Dkt. No. 87) is now the operative complaint.

² On June 24, 2019, Dundon removed the Civil Action to the United States District Court for the Northern District of California (“California District Court”). On September 6, 2019, the California District Court transferred the Civil Action to the United States District Court for the Western District of Texas.

apparent to the Trustee that the individual redactions would cause substantial delay to already extended discovery deadlines and exhaust limited estate resources.

7. Some, but likely not all, of the referenced information would ultimately be marked as exhibits or used as evidence to be placed in the Court's files. After consultation, the Plaintiffs' counsel and the Trustee's counsel have concluded that it will be much more efficient to allow production pursuant to a protective order for discovery purposes primarily to be viewed by counsel. This will permit efficient redaction of personally identifiable information from documents only as they are ultimately used in an open setting at the time they are used.

8. In addition, the other parties anticipate using, disclosing, or producing information and documents containing confidential information.

9. Rule 26(c)(1) of the Federal Rules of Civil Procedure and Rule 7026 of the Federal Rules of Bankruptcy Procedure provide that:

"A party or any person from whom discovery is sought may move for a protective order in the court where the action is pending The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including . . . limiting the scope of disclosure or discovery to certain matters [or] requiring that a deposition be sealed and opened only in court order [or] requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way."

10. Given the highly sensitive nature of the information to be disclosed or produced, the Parties worked cooperatively to reach agreement on the terms of an Agreed Protective Order ("Protective Order"). The Protective Order provides for the confidential treatment of documents, deposition and trial testimony, and information containing or reflecting confidential, proprietary, trade secret, and/or commercially sensitive information that are likely to be disclosed or produced by the Parties in response to each other's discovery requests or through testimony during deposition or at trial.

11. Good cause exists to enter the Protective Order, as doing so will allow the Parties to

disclose information produce documents in connection with the aforementioned discovery requests, while limiting the risk of confidential and commercially sensitive business information being disclosed to third parties, and substantially alleviate the burden of redacting and safeguarding personally identifiable information.

12. The Parties request that the Protective Order be granted without the need for a hearing, in accordance with Federal Rule of Bankruptcy Procedure 9018.

WHEREFORE, the Parties respectfully request entry of the Protective Order, substantially in the form attached hereto as **Exhibit A**.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on the 18th day of November, 2020, the foregoing motion was served on the counsel identified below by email and via the Court's electronic ECF filing service:

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